No. 2.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1942.

WILLIAM SCHNEIDERMAN,

Petitioner,

v.

THE UNITED STATES OF AMERICA.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

REPLY BRIEF FOR PETITIONER.

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Boiled down, the Government's whole contention is that the petitioner's mere membership in the Communist Party, in and of itself, disqualified him for naturalization. In any event, the Government asserts, such membership and the amount of the activity of the petitioner from the age of 16 to 21 as such member warrants imputing to him as his own beliefs all of the views or expressions set forth in Communist writings, even to the extent, by such imputation, of giving the lie to his own testimony as to his beliefs. By thus imputing to petitioner a belief in and advocacy of the views, prophecies and perfervid rhetoric set forth in the writings of various individuals, many published subsequent to his naturalization, and many of which he had never seen, (e. g. Exhs. 13, 14, 26 and 27. R. 248, 249, 254, 255, 273, 274-276) the Government builds up an unreal Frankenstein monster of disloyalty and perjury between which and the petitioner, as a boy of 21, no resemblance can be seen.

I. The Government's brief is replete with inconsistencies, exaggerations, and misuse of the record.

At the outset, the Government concedes, in effect, that mere membership in the Communist Party is not sufficient to sustain the finding of illegal naturalization. The brief agrees that the writings of party members cannot be imputed to the party and then, by this channel, imputed to a party member unless the member in question is an active (rather than a mere "rank and file") member of the party (Gov. Br., p. 26). *But*, later in their brief, the Government asserts that, with certain irrelevant exceptions, "mere • • • membership" in the Communist Party "without more is enough" (Gov. Br., p. 120). "Mere proof of membership in the Communist party is sufficient to show" (Gov. Br., p. 120 footnote) (1) lack of allegiance, (2) membership in an organization believing in force and violence and (3) membership in an organization believing in or opposed to organized government and (4) "lack of attachment to the Constitution".

Further. Having, as above stated, propounded the view that only active members in the party may have imputed to them practically anything that any Communist may have written or spoken at any time (Gov. Br., p. 26)—in order to establish the requisite activity of petitioner, the Government clearly misstates, in many respects, his activities as a boy of 16 to 21, and grossly exaggerates it in others. For example, throughout their brief they persistently state that petitioner "taught" the Communistic doctrines set forth in certain writings (Gov. Br., pp. 5, 14, 59, 86 and 88). As we shall show hereafter, up to the time he was naturalized, young Schneiderman had never been a teacher. Furthermore, they claim that "as an intelligent and educated indi-

vidual, he became *a leader* of these organizations *as an intellectual revolutionary*" (Gov. Br., p. 26; italics ours). (See also Gov. Br., p. 121.) This is a gross exaggeration of the activities of this inconspicuous boy of 16 to 21, then working his way through high school and college. (See pp. 6-7, *infra.*)

Further. The Government with propriety "emphasizes" that the "relevant period"—"the critical time"—is the period up to the naturalization of Schneiderman in 1927. (Gov. Br., p. 23.) They try to borrow some time beyond 1927 by using the phrase "up to and about 1927, when petitioner was naturalized" (Gov. Br., p. 23). Of course, the question of the legality of this naturalization must be determined upon the basis of the facts as they were at the time of naturalization. Notwithstanding this, a substantial portion of the literature upon which the Government relies is literature which was written subsequent to 1927. Notwithstanding the statement in the Government's brief that "only that earlier period is intended to be included in our discussion" (Gov. Br., p. 23), if all references to literature published subsequent to 1927 and the arguments based thereon were stricken from the Government's brief, its proportions would be greatly diminished (See Appendix I hereto for analysis of literature).

Further. Most of the activities of the petitioner as a party member upon which the Government relies as a basis for claiming the right to impute to the petitioner what other men wrote are activities *subsequent to 1927* (See Gov. Br., pp. 5, 6).

Further. A substantial portion of the quotations from and the references to documents upon which the Government relies are quotations and references to portions of the documents which are not in the printed record. We have

found at least *360* of these quotations and references (See Appendix II hereto). If these were eliminated from its brief, the task of the Court and of opposing counsel in getting at relevant material would have been greatly lightened.

Further. The Government's brief has many quotations which in and of themselves and separated from their context seem to have the purport which the Government gives to them, but when read in their context are found to apply only to particular conditions in Russia or other parts of continental Europe with which the author was then dealing, or to have a different meaning from that sought to be given by the Government to the excerpt quoted. For example, the "Manifesto of the Communist Party" deals with conditions in continental Europe in 1848, prior to the 1848 revolution (R. 124, 878, 879), and "The Theory and Practice of Leninism" deals with Russia and the revolution in that country (R. 212, 879).

Further. One of the documents to which reference is made at least 78 times in the Government's brief, and the appendices thereof (see right hand column in our Appendix II hereto) and upon excerpts from which a great deal of stress is laid, was not in evidence in the case at all and no part thereof appears in the printed record (Gov. Exh. 26 for identification, R. 274). Government counsel at the trial asked petitioner if he knew the document, and, in so doing, prefaced his question with the statement, "Now, referring to Exhibit No. 26 in evidence * * *" (R. p. 835). In so prefacing his question, the Government counsel at the trial was in error. This exhibit was never in evidence. This exhibit is in fact, the Government's chief reliance. Further, this exhibit is a document as to which the Government's own witness stated that it was not "widely circulated or sold" (R., p. 274). If the quotations from, references to,

and arguments based on this Exhibit 26 were stricken from the Government's brief, it would be left in shreds.

II. The Government's brief does not deal in realities.

If this case had to do with the legality of a naturalization, let us say in the year 1935, of Lenin or Trotsky, then most of the quotations from the documents and the Government's arguments based thereon might be pertinent. But as applied to the naturalization in 1927 of this inconspicuous boy, then 21, they are entirely irrelevant.

The Government's brief does not deal in realities. It tries to obscure the basic fact that the case has to do with an unimportant boy of 21 and that it is, in last analysis, only by virtue of his mere membership in the Communist Party that they now seek to void his naturalization of many years standing.

The Government completely ignores the significance of the petitioner's unblemished record as a peaceful and law-abiding member of the community. There is no charge that he ever was arrested or broke the peace or the law. There is no charge that there was a plain, flagrant violation in any respect of the naturalization laws. There is no charge that his youthful activities as a member of the Communist Party were in any way secret—the fact is, they were quite open. There is no shred of immediate direct evidence of belief by him in prohibited principles.

One would think that in order, after twelve years, to upset the judgment of the naturalization court on the ground that it was illegally obtained, some very clear, direct, positive and incontrovertible proof should be forthcoming demonstrating the illegality. Yet the Government takes 128 pages of brief to seek to demonstrate this illegality,

filled with fine spun arguments addressed solely to the proposition which the Government says is the only question in the case, to wit: "whether there is sufficient evidence to support the *findings of the district court*" (Gov. Br., p. 2). (Italics ours.) [In passing, it is the determination of the Circuit Court of Appeals, and not the findings of the District Court, that are on review in this Court.] On the face of things, there must be something wrong if it takes 128 pages to demonstrate that the inconsequential activities of this boy of 21 as a member of the then Communist Party in America and the unproven beliefs with which he is charged disqualified him to become a citizen of the United States within the limitations upon naturalization then imposed by the statutes.

The case boils down to what was the behavior of the Petitioner at the age of 21 and what did he then believe? His behavior (his activity) we detail below.

In 1922, then a boy of 16, he became a charter member of the Young Workers' League, and a so-called "educational director" thereof, a position which he held for about two or three years (R. 86, 87, 89, 357). He joined the League with the idea of studying what the principles of Communism had to say about the conditions of society as he saw them (R. 357).

As educational director his only duties were to organize classes to study Marxism and the political and educational situations in the different countries, and to send out notices of meetings (R. 87, 359, 360). It does not appear how successful he was in organizing these classes. He did not teach any of these classes or even arrange the curriculum of study and received no salary for his work (R. 88, 89, 359). When the Government refers to him as a teacher it makes a misstatement (Gov.'s Br., pp. 5, 14, 59, 86, 88). At the time of his naturalization, he held no official position in the League

although he was still a member thereof (R. 91). He never attended any Congresses of the Young Communist International (R. 90).

He became a member of the Workers' Party at the end of 1924 or beginning of 1925. This organization later changed its name to the Workers' Communist Party and then to the Communist Party of the United States (R. 91).

During 1925 and 1926 he was the secretary of the Workers' Party in Los Angeles, his duties being merely to keep the minutes and send out communications for meetings. It was not an executive position but purely a clerical job (R. 92. 175, 358, 359).

He attended conventions of the Young Workers' League as a delegate in 1922 and 1924 and attended a convention of the Workers' Party in 1925 *but not as a delegate* (R. 96, 97).

It would be a monstrous injustice, twelve years after naturalization, to take away the citizenship of this man whose whole conduct had been above reproach by first imputing to the Communist Party of Russia an adherence to everything that any writer or Communist dealing mainly with *Russian* conditions may have said in the fervor of his advocacy, and then imputing adherence to these pronouncements to the Communist Party of America by virtue of whatever theoretically strong, but factually weak, connection there may have been between the Communist International and the American party, and then imputing this whole body of material to an insignificant boy of 21 living in Los Angeles.

III. Specific answer to the Government's points.

A. Alleged false oath of allegiance.

The Government contends that the Petitioner made a false oath of allegiance because of:

(a) "Petitioner's subjection to primary political control and discipline of the Communist Party and of the Third Communist International". (Discussed Gov. Br., pp. 28-45); and

(b) "Also on the basis of fundamental communist precepts, petitioner was lacking in allegiance to the United States" (Gov.'s Br., pp. 45-46).

These contentions are, we submit, without merit. No matter how rigid the discipline of the Communist Party may have been designed to be or how theoretically subservient the Communist Party of America may have been to the Communist International, these organizations, at most, were mere political parties and were not "princes, potentates, states or sovereignties" to whom only, allegiance was to be foresworn under the naturalization law then in effect (see Petitioner's Main Brief, pp. 8, 9, 18-22).

"Allegiance" is generally defined as the relation or obligation of a citizen to his *sovereign* or of an alien to the government under which he resides (Webster's Standard Dictionary) *not to any form of political party*, and this definition has been accepted generally by the Supreme Court of the United States. *United States* v. *Wong, Kim Ark*, 169 U. S. 649, 659 (1898) and *Carlisle* v. *United States*, 83 U. S. 147, 154 (1872).

Moreover, the evidence relied upon (all documentary) fails to establish that in fact and in reality there existed any such discipline and subservience as claimed. Practically the only pertinent, prior-to-1928 evidence upon which the Government relies to sustain its claim of rigid political control is a quotation from the "Statutes, Theses and Conditions of Admission to the Communist International" (Gov. Ex. 26, R. 274), but, as stated, this document is not in evidence (R. 274). See p. 4, *supra*. The excerpt there-

from which is relied on is that: "Any *delegate* who in one way or another does not submit absolutely to the Party shall be expelled from the ranks of Communism" (Gov. Br., p. 30). This quotation obviously does not prove the case. Much weight is also given by the Government (Gov. Br., pp. 35-37) to the "Program of the Communist International" (Ex. 6), but this was adopted in 1928, after the "relevant period."

The evidence referred to by the Government at pages 41-44 of its brief to show subservience is almost entirely outside of the Record (See Appendix II hereto).

The Government's own compilation of the history of the Party shows that this endeavor of the Communist International to control party regularity and orthodoxy of its members was so ineffective that in 1928 an International Control Committee was appointed to try to give it some potency (Gov. Br., pp. 37, 138, note 116).

In any event, the fact that one belongs to an organization, be it a church, a peace society, an English-Speaking Union, or a political party, which has its principles established by some central authority located abroad to which principles a member agrees to give adherence on penalty of expulsion for lack of orthodoxy is clearly not proof of lack of allegiance to the United States.

But, as the Petitioner himself testified, though the Communist Party of the United States and the Communist International were affiliated, "the question of the statutes became an academic question related to the field of theory", and the American Party's affiliation with the International "took place under the express provision that we are not subject to and exempt from the 21 conditions of admission" (R. 380, 831-2. See Gov. Br., pp. 38-9).

In this connection occurs another instance of the gross exaggeration to which the Government resorts in its en-

deavor to sustain the decree below, when they refer to the Petitioner as being "so active a member and leader of these organizations that his political loyalties at the time of his naturalization were wholly pledged by him to the Communist Party and to the Third Communist International" (Gov. Br., p. 45).

With respect to their second reason for claiming lack of allegiance, to wit, "On the basis of fundamental Communist precepts" (Gov. Br., pp. 45-46), the evidence utterly fails to prove the case. Reliance is first placed on pages 125 and 126 of Exhibit 16 (see Gov. Br., p. 46). These pages are not in the record. Further, the Exhibit from which they are quoted, to wit, the "A B C of Communism", was never accepted as an authorized version of Communism and the book was rejected as being an improper exposition of the theory of Communism (R. 163-164, 834-835).

The next reference is to page 28 of the Communist Manifesto written by Marx and Engels in 1848 (see R. 125) which contains the statement that "The workingmen have no country. We cannot take from them what they have not got." But this was followed with the statement that the "Proletariat * * * must rise to be the leading class of the nation, must constitute itself the nation",—a seemingly harmless pronouncement.

The next reference is to page 45 of Exhibit 10 (Gov. Br., p. 46), but this page is not in the record (see Appendix II).

The next reference is to Exhibit 26 for Identification, but, as stated above, this Exhibit is not in evidence nor is any part printed in the record.

The next reference is to pages 12-13 of Exhibit L (R. 464), which are not in the record, this Exhibit being in the form of a letter to American workers by Lenin.

Reliance is also placed on an excerpt from an acceptance speech of William Foster made in 1928, to wit, after the relevant period (see Gov. Br., p. 47). It is not in the record and petitioner testified that he had never seen it (R. 158).

Except for the innocuous statement from the Communist Manifesto of Marx of 1848 quoted above, all the rest of the statements relied upon and which to us seem to fail to prove the contention, are not to be found in the record or are subsequent to the relevant period.

We cannot permit to pass unchallenged a statement contained at page 8 of the Government's brief, and repeated in substance at page 11. The statement at page 8 of the Government's brief is that "The program of the Communist International and the resolutions of the United States section were to the effect that in the event of hostilities with Soviet Russia the first allegiance of party members was to be towards U. S. S. R. (R. 117 to 119, 245-246)." "The program of the Communist International" to which reference is made was adopted in Moscow in 1928, we presume by a lot of Russians. In any event, it could have no bearing on the legality of the petitioner's naturalization in 1927. The alleged "resolutions of the United States section" to which reference is made, clearly do not have any such interpretation as that sought to be given to them (R. 245-246).

The Petitioner testified without qualification that in the event of a war between the United States of America and the Union of the Soviet Republic he would be willing to bear arms on behalf of the Government of the United States against Soviet Russia. He said: "I believe that is one of the obligations of citizenship" (R. 886, 887).

The Government is apparently not satisfied with the validity of the grounds upon which the Court below deter-

mined that the Petitioner had taken a false oath of allegiance. The Court below found a false oath not on any of the grounds relied upon by the Government in its brief and discussed above, but merely upon the basis that because of his membership in the Communist Party there would be imputed to the Petitioner a belief in principles which the Court held to be contrary to the "views of the Constitution" (R. 915). The Communist principles thus imputed to the Petitioner by the Court below and held by that Court to be contrary to the views of the Constitution are entirely different from the "fundamental Communist precepts" to which the Government refers to at pages 45 and 46 of its brief (See R. 916).

The Court below evidently considered that the belief—which it imputed to Petitioner—in the overthrow of this Government by force and violence affected the validity of the oath of allegiance. The Government, however, in its brief, treats the alleged belief of Petitioner in the use of force and violence as one of the elements affecting his "attachment" to the principles of the Constitution (See Gov. Br., p. 60). Accordingly, we shall deal with this matter of force and violence under that heading.

B. The Petitioner's behavior.

The Government devotes the major portion of its brief to the question of the Petitioner's behavior (Gov. Br., pp. 53 to 110). It is noteworthy that the Court below did not find any illegality in petitioner's naturalization arising from any alleged failure to behave as a person attached to the principles of the Constitution. As already stated, the Court below placed its affirmance of the District Court solely on the ground of the falsity of the oath of allegiance. Since the proceeding before this Court has for its object the review of the decision of the Court below and not that

of the District Court, we might, therefore, with propriety, object to any consideration of arguments dealing with the question of behavior or attachment to the principles of the Constitution. In any event, it is to be noted that the Government apparently feels that it would be on weak ground if it sought to sustain the decree of the Court below on the basis on which that Court placed it.

The statute, at the time of petitioner's naturalization, provided that "it shall be made to appear to the satisfaction of the court * * * that immediately preceding the date of his application, he has resided continuously within the United States five years at least * * * and that during that time, he has *behaved as a man* of good moral character *attached to the principles* of the Constitution of the United States and well disposed to the good order and happiness of the same. In addition to the oath of the applicant, the testimony of at least two witnesses, citizens of the United States, as to the facts of residence, moral character and attachment to the principles of the Constitution shall be required * * *." (Italics ours.) (See Petitioner's Main Brief, pp. 8-9.)

Now it did appear "to the satisfaction of the Court" in admitting Petitioner to citizenship, that he had behaved as a man attached to the principles of the Constitution. The requisite two witnesses were provided. But, says the Government, although his external behavior had seemingly been in every respect exemplary, he had not in fact behaved properly because he had been guilty of membership in the Communist party and had some activity therein; and further, says the Government, the test of behavior is subjective as well as objective, that is to say, the Petitioner must, in fact, in his mind and in his belief have been attached to the principles of the Constitution.

While it is clear that the test of "behavior" laid down by the statute is objective and not subjective, and while under the recent case of *Kessler* v. *Strecker*, 307 U. S. 22, the statute must be taken as it is, to wit, as establishing an objective test only, and not as it might be, we submit that petitioner's belief in those Communist principles to which he gives adherence does not demonstrate even subjective lack of attachment to the principles of the Constitution.

Within the requirement of attachment to the principles of the Constitution, the petitioner had, we submit, a right to believe in and advocate changes in the Constitution, no matter how radical and fundamental, so long as they were to be accomplished by the peaceful process of amendment. There is no validity to the Government's contention that one cannot be attached to the principles of the Constitution unless he believes in the continuance of the existing framework of the Government and the so-called basic principles of the Constitution and its "general political philosophy." (See Government's Brief, p. 103). We assert that the following language from the dissenting opinion of Mr. Justice Holmes in the case of *United States* v. *Schwimmer*, 279 U. S. 644, 654, correctly states the law on this question, reading as follows:

> "• • • if there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought—not free thought for those who agree with us but freedom for the thought that we hate. I think that we should adhere to that principle with regard to admission into, as well as to life within, this country."

This is particularly true since the decision of this Court in the *National Prohibition Cases*, 253 U. S. 350 (1920) and the case of *Bridges* v. *California*, 314 U. S. 252. (See our Main Brief, Point II, pp. 25-27.)

The Government itself admits that an alien about to be naturalized may justifiably have beliefs in a certain amount of change and improvement in the Constitution. The Government says:

> "We do not contend, of course, that, to achieve citizenship, an alien must insist on the maintenance of the *status quo* or believe that improvement is impossible. He may think that the laws and the Constitution should be amended in some or many respects" (Gov. Br., p. 104).

Who is to determine at what point belief in changes to be accomplished by peaceful methods pass from the permitted into the forbidden? Is it to vary from time to time with the attitude of a particular court and the temper of the times? We say, let Congress determine by clear enactment.

The Government's brief lays so much stress on the allegedly advocacy by the Communist Party and by the Petitioner of the overthrow of the Government of the United States by force and violence as constituting evidence of lack of attachment to the principles of the Constitution that it perhaps deserves special consideration (Gov. Br., pp. 60-94). We respectfully submit that the point is without merit.

There is, we submit, a clear failure of proof on this point. Here again, the proof consists almost entirely in the attempt to impute to the Petitioner as a boy of twenty-one the writings of various members of the Communist Party mostly resident in Europe and dealing with European conditions; and here again the proof to a large degree consists of excerpts from writings and documents published subsequent to the plaintiff's naturalization (see, e. g., quotation from "Why Communism", published in 1935) (Gov. Br., p. 62); and consists in part even from a quotation from the

"Statutes, Theses and Conditions of Admission to the Communist International" (Ex. 26. See Gov. Br., p. 63), which exhibit is not in evidence.

With respect to the proof designed to show the advocacy by the Communist Party itself of the overthrow of governments by force and violence, the Court below, as the Government points out in its brief, observed (R. 917) that there were "sharply conflicting views" among Communist writers with respect to the advocacy of force and violence. Further, the Government, in its brief, admits that on the issue of the advocacy of the overthrow of the government by force and violence, the programs and doctrines upon which it relies are of an ambiguous character. It states this negatively by stating that, "except for this issue," their other arguments are based on programs and doctrines of "unambiguous character" (Gov. Br., p. 61). Dealing with this conflicting evidence admittedly of ambiguous character, the Government then urges what it characterizes as "a proper and sensible *interpretation*" (Gov. Br., p. 61). It thus appears that at the outset we have to deal with inconclusive, admittedly "conflicting" evidence, of such an ambiguous nature that it requires "interpretation", as to what the Communist Party itself believed on this subject, before the chain of imputations can be forged which will charge this boy of twenty-one with advocacy of the overthrow of the Government of the United States by force and violence.

It is clear that most of the documents relied upon were written by Russians with a view to Russian conditions in former times, and cannot in fairness be deemed to have been directed toward the advocacy of the use of force and violence for the overthrow of the Government of the United States.

The argument made by the Government that irrespective of his membership in the Communist Party "petitioner's

own beliefs in respect of force and violence disqualifies him" (Gov. Br., p. 82) is too unsubstantial to merit comment. It is not supported by the proof. The Government's contention that "in any event even if the Petitioner did *subscribe* to the interpretation for which he contends, he nevertheless *taught* a different interpretation which embodies force and violence" (Gov. Br., p. 86) (Italics in original) is also absolutely without support in the proof. It illustrates the length to which the Government is forced to go in its endeavor to sustain the decree below. At no time prior to 1927 was the Petitioner a teacher. Under this heading the Government goes so far as to say—without warrant—"petitioner was an active participant in and a leader of the Party; further he *participated in the formulation of some*, and in the dissemination of much, of this literature" (Gov. Br., p. 88) (Italics ours). There is not a shred of evidence that the Petitioner participated in the formulation of any "of this literature."

At the time of the naturalization of Petitioner, there was no express provision in the naturalization law that persons who belonged to an organization which advocated or taught the overthrow by violence of the Government of the United States or who distributed the literature of such an organization could not be naturalized. Provisions of this character did not appear in the naturalization statute until the year 1940, although the naturalization statute had been amended three times in the period between June 1906 and June 28, 1940. But says the Government, the deportation act of 1920 which authorized the deportation of an alien who belonged to an organization which advocated the use of force and violence or who merely distributed its literature, must be imported into the naturalization act of 1906 (Gov. Br., p. 81). This is a novel contention. We do not think that it is sound.

The Government assumes that, in 1927, membership in the Communist Party in and of itself rendered an alien deportable, as constituting membership in an organization believing in or advocating the overthrow of government by force and violence. In this we think they are wrong. In the case of *Strecker* vs. *Kessler*, 95 Fed. (2d) 976 (C. C. A. 5th Cir. 1938), the court held that mere membership in the Communist Party of America, standing alone, was not sufficient to warrant deportation. This case was affirmed on other grounds by the Supreme Court of the United States, 307 U. S. 22. Furthermore, in the deportation cases the statutes made the decision of the Secretary of Labor "final" (8 U. S. C. Sec. 155).

By the Act of March 3rd, 1903 (32 Stat. 1213, 1214, Chap. 1012, Sec. 2) Congress directed the exclusion from admission into the United States of "polygamists, anarchists or persons who believe in or who advocate the overthrow by force or violence of the Government of the United States or of all government or of all forms of law, or the assassination of public officials" and, by Section 21 of that Act, Congress provided for the deportation *within three years after entry* of any person found in the United States in violation of the Act. Why, three years later, Congress, in passing the Act of June 29, 1906 (chap. 3592, Sec. 4, 34 Stat. 596), selected as disqualifications for naturalization some of the bases for exclusion contained in the exclusion and deportation statute of 1903, but did not specifically include as a disqualification for naturalization any direct reference to the advocacy of force and violence, we do not know. The fact is that it did not.

The fact that Congress was apparently content to allow an alien to remain in the country who was an anarchist and who advocated the overthrow by force and violence of

the Government if he had been here for three years or more, may have been the reason that Congress set up, as a test for naturalization, proof of behavior during a five year period of residence so that even an anarchist could by his objective behavior during five years demonstrate his attachment to the principles of the Constitution.

It may well have been that Congress felt that in the requisite five year period of residence before naturalization that the anarchist at whom the exclusion act of 1903 was addressed would have acquired "a taste for our kind of government" (See Gov. Br., p. 106; also footnote to Gov. Br., p. 125). In any event, since under the 1903 statute even an alien who believed in the overthrow of the Government by force and violence could not be deported after three years from the date of entry, Congress may well have felt that, given two years more of residence, there was no reason why it should make the test for naturalization of a non-deportable alien as severe as the requisites for entry.

And we do not know why Congress when it passed the exclusion acts of 1918 and 1920 (which by their title were expressly aimed at "anarchists") did not then amend the naturalization law. But it did not.

If further evidence were needed that the deportation statutes of 1918 and 1920 were not intended by Congress to be and should not, therefore, be imported into the naturalization act of 1906 in effect at the time of the Petitioner's naturalization in 1927 (see Petitioner's Main Brief, pp. 36, 37) it should be noted that in 1940, in adopting a practically new naturalization statute Congress then, for the first time, provided that:

> "No person shall *hereafter* be naturalized as a citizen of the United States——
>
> • • • • • •

(b) Who * * * advocates, or teaches, or who is a member of or affiliated with any organization, * * * that believes in, advises, advocates, or teaches—

(1) the overthrow by force or violence of the Government of the United States * * *

* * * * * *

(c) Who * * * circulates, distributes * * * printed matter advising, advocating, or teaching * * *

(1) the overthrow by force or violence of the Government of the United States * * *." (Italics ours.)

(See Appendix III) (Act of Oct. 14, 1940, c. 876, Title I, subchapter III, Sec. 305, 54 Stat. 1141; 8 U. S. C. 705).

Thus, in 1940, Congress expressly provided that those grounds of exclusion contained in the 1918 and 1920 exclusion statutes, which the Government contends should be imported into the 1906 naturalization law, should only be applicable "hereafter" as disqualifications for naturalization.

Under the recent case of *Kessler* v. *Strecker*, 307 U. S. 22, the naturalization and deportation statutes, must be taken as they are or were, and not as they might well have been. These statutes are to be given a strict interpretation.

Consequently, it would not be proper to import into the naturalization statute in effect in 1927 the provisions of the then existing deportation statute and thereby, as the Government contends (Gov. Br., pp. 13, 80-82) reach the novel conclusion that petitioner was illegally naturalized because, perhaps, he might have been deportable.

We do not contend that if the Petitioner at the time of his naturalization had in fact advocated the overthrow

of the Government of the United States by force and violence he would have been entitled to be naturalized. We do not believe that such advocacy is consonant with a true oath of allegiance. A man cannot well intend to obey a government, the overthrow of which by force and violence he is advocating.

We do say that in the case of this Petitioner, whose behavior, both before and since naturalization, has been above reproach (unless, as the Government contends, mere membership and some minor activity in the Communist Party is a reproach), who has given no evidence except such membership in the Communist Party of any belief in or advocacy of the overthrow of this Government by force and violence, but on the contrary has by his conduct evidenced a lack of belief in such measures, who specifically testifies that he does not believe in such measures, whose party platform, when at last formulated in 1938, forbids such measures,—we do not believe that this man should have his citizenship taken away from him on the basis of imputing to him admittedly conflicting views of party writers and admittedly ambiguous expressions of writers requiring "interpretation". Such proof, we say, is an utterly insufficient basis for taking his citizenship away from this Petitioner.

C. The petitioner's disbelief in and membership in an organization disbelieving in organized government.

Here again the Government is urging a ground of disqualification not relied upon by the Court below.

Of course, historically considered, the requirement for naturalization that Petitioner should not be a disbeliever in or a member of an organization teaching disbelief in or opposed to organized government as it appears in the Naturalization Statute of 1906 was designed to exclude an-

archists from naturalization. Communists had not then been heard of. Of course, there is a distinct difference between the tenets of Communism and the preachings of anarchy.

Contrary to Petitioner's own testimony that he actually believed in organized government (R. 363) the Government's entire proof consists of imputing to him stray expressions found in a few of the documents introduced, which do not, we submit, sustain the contention.

The first document to which the Government refers is page 31 of Exhibit 11, found at Record 214 (see Gov. Br., p. 112). The first sentence of this excerpt reads:

> "The dictatorship of the proletariat is not a change of ministry, but a new State, with new State and local organs. The State of the proletariat shall rise on the ruins of the old State of the bourgeoisie."

This excerpt would seem to indicate a belief in an organized government.

The next reference in the Government's brief is to page 60 of the "A B C of Communism", Exhibit 16. As we have previously shown, this particular document had no currency and was subsequently barred from use. The excerpts certainly do not sustain the view that even the author of this non-authoritative book was opposed to organized government. For example, reading from page 60 (see R. 189) the author of the "A B C of Communism" said:

> "The proletariat state is necessary till, in the fully developed Communist system there is left no trace of capitalism. The proletariat state will disappear with the last remnants of the capitalist system. • • • After twenty or thirty years a new world will appear in which there will be other men and other manners."

The next reference found in the Government brief is to page 45 of Exhibit 26 which, as we have shown, was not introduced in evidence.

The next reference made is to page 13 of Exhibit 18, a document entitled, "The State and Revolution", found at page 134 *et seq.* of the record (see Gov. Br., p. 112). In this excerpt, the author is explaining the vital difference between anarchists and Communists, showing that anarchists want an immediate overthrow of all organized government and are opposed to all organized government, whereas the Communist concept of the development of society was that "when the State really becomes the representative of the whole of society" (instead of the representative merely of the capitalists) "it will make itself superfluous" (R., p. 135). In that Utopian day, after society has passed through the "proletariat form of the 'state'" which "is then an absolutely complete democracy" (R. 138), it is prophesied that a time will come when "the State in general, that is, a most complete democracy, can only wither away", (R., p. 139) in which day there will be no need for the State. On that glorious day (for which we all might wish), "the authority of the government over persons will be replaced by the administration of things and the direction of the processes of production". If this "administration of things and the direction of processes of production" is not just another type of state, just another type of organized government, such as very largely exists in all capitals today, then what is it?

From this analysis of the proof, it can be said that there is no substantial basis to be found in the literature relied upon for contending that the Communists are opposed to organized government. That Communists, as a party, are officially so opposed must first be established

clearly and definitely before the Petitioner can be charged with opposition to organized government by imputing to him the beliefs of the party in direct contradiction of his own testimony to the contrary.

In summary, we say that this contention that the Petitioner was opposed to organized government at the age of 21 and consequently can now be deprived of his citizenship is too flimsy for words.

Summary.

The burden upon the Government to obtain a revocation of the Petitioner's naturalization in the instant case is, we submit, quite heavy. The Petitioner's papers were in entire conformity with the requirements of the statute. He had, in fact, behaved prior to his naturalization in an exemplary fashion. Subsequent to his naturalization he has behaved in every way in an exemplary fashion. There is no claim that he was ever guilty of violence or the preaching of violence or the inciting to mass action or any other misconduct. All that can be said of him and all that is said of him is that he was a Communist, believing in the general social and political theses of that party. Congress alone could make mere membership in the Communist Party of America a bar to naturalization. It has not only not done so but is apparently unwilling to do so. The only basis upon which the Petitioner should now lose his citizenship is clear and positive proof that in 1927 he personally held the views and advocated the practices which would constitute a disqualification under the 1906 act. The only direct proof as to his beliefs and advocacy is the Petitioner's own testimony, which disproves the Government's case. Failing in direct proof, the Government endeavors

to make a case by a gigantic process of imputation. We submit that in this endeavor, the Government has entirely failed.

We have this astounding result: That for views which may be freely entertained by a native born citizen and party membership which may be proper for a native born citizen, a naturalized citizen may, years after naturalization, have his citizenship taken away from him if the then temper of the times is unfriendly to such views and such party membership and the leanings of the then district attorney in the particular district and of the then court before whom the matter is brought are antagonistic, though Congress, in whom alone the power rests to specify qualifications, has not clearly and distinctly spoken on the subject. In consequence many gross injustices may arise, as in this case.

Conclusion.

The decree of the Circuit Court of Appeals should be reversed.

Respectfully submitted,

Wendell L. Willkie,
Carol King,
Counsel for Petitioner William Schneiderman.

Wendell L. Willkie,
Carl M. Owen,
Howard C. Wood,
of Counsel.

Appendix I.

Analysis of Documents and Literature Cited and Relied Upon by the Government in its Brief.

(a) Prior to 1927.

Documents and literature published or in existence on or prior to the date of petitioner's admission to citizenship in 1927.

1. *Manifesto of the Communist Party*, by Marx and Engels (Ex. 7, R. 123, 124). This document was apparently in existence long prior to petitioner's admission to citizenship, but the edition shown petitioner was published in 1932 according to the Government's own concession (Gov't. Brief, p. 151). Schneiderman testified that he was familiar therewith, that it was the basis of tactics of Communism under the Marxism theory and he believed that these general principles of Marxism, *particularly as they applied to the period in which they were written and the country about which they were written*, were entirely correct and were approved by him at the time he was admitted to citizenship (R. 122, 123). *While this book was in existence and Schneiderman was familiar therewith at the time of his naturalization, his approval was merely of general principles, particularly as confined to the period in which and the country about which the book was written. The writing itself deals with conditions in Europe in 1848* (R. 878-879).

In citing or quoting from said Exhibit, the Government, at least 3 times in its briefs and 6 times in Appendix B thereof, refers to a page or quotation therefrom *not* appearing in the printed record (see Appendix II).

2. *Left-Wing Communism; An Infantile Disorder.* (April 27, 1920, Ex. 9, R. 143, 144). While Schneiderman testified that he was familiar with this book, there is no evidence in the record showing when he first became familiar therewith, nor was he asked nor did he state that he believed in the views and principles therein expressed (R. 143).

In citing or quoting from said Exhibit, the Government, at least 11 times in its brief refers to pages of or quota-

tions therefrom *not* appearing in the printed record (see Appendix II).

3. *Statutes, Theses and Conditions of Admission to the Communist International.* (July 17 to August 7, 1920, Ex. 26, R. 273, 274). According to the record this document was never marked in evidence (R. 274) and therefore cannot be relied upon by the Government. *Despite the fact that this document constitutes no part of the record and no part is printed therein* (R. 274), the Government has cited or quoted portions thereof *at least 61 times in its brief* and *at least 20 times in Appendices B and C thereof* (see Appendix II). Petitioner testified that he had no recollection of this particular edition or of its being sold in the so-called communist bookshops and that he did not believe that this book was ever printed in the United States (R. 835, 836). Hynes, one of the Government's own witnesses, testified that this book was not "widely circulated or sold" (R. 274).

4. *A.B.C. of Communism* (1920-1924, Ex. 16, R. 185-187). While petitioner testified that he was familiar with this book, he was not asked nor did he state when he became familiar therewith, or that he believed or subscribed to any of the views therein expressed (R. 163). He further stated that the book was never accepted as an authorized version, was subsequently barred from use in all of the Communist schools and open forums since the editors were not entirely in agreement with the Communist Party on several questions, that said editors were ultimately expelled from the Communist Party in Russia (R. 163, 164) and said book did not purport to expound the proper theory of Marxism and Leninism (R. 834, 835).

In citing or quoting from this Exhibit, the Government, at least 16 times in its brief and 8 times in Appendices B and C thereof refers to pages or quotations therefrom *not* appearing in the printed record (see Appendix II).

5. *Program and Constitution of the Workers Party of America* (adopted at National Convention in 1921 and amended at National Convention in December 1923 and January 1924, Ex. 27, R. 275, 276). Petitioner testified

that he *was not personally familiar with this Program and Constitution*, but that it probably constituted one of a number of drafts presented to a convention of the Party, *but never finally adopted by the Party*, and that it was his understanding that there was no final adoption of a constitution and program until 1938 (R. 836-839 inclusive). Petitioner was not even a member of the Workers' Party at the date stated as the time of adoption and amendment of this document (R. 860).

6. *The Second Year of the Workers' Party in America* (December 1923 and January 1924, Ex. 13, R. 248, 249). Petitioner testified with regard thereto that he was not familiar with the book or its contents (R. 161) and in fact he had not even joined the Workers Party at the time of the Convention at which the report, embodied in this book, was made (R. 91, 249, 883).

In citing this Exhibit, the Government, at least 21 times in its brief, and at least 18 times in Appendices B and C thereof, refers to pages of said Exhibit *not* appearing in the printed record. (See Appendix II).

7. *Theory and Practice of Leninism* by I. Stalin. (1924-1929, Ex. 11, R. 158-160, 211, 212). Petitioner testified he was familiar with this work but not the particular edition introduced in evidence by the Government (R. 158, 159). He was not asked nor did he state when he acquired such familiarity or whether he subscribed in any way to the views, beliefs or principles therein stated.

In citing or quoting from this Exhibit the Government, at least 20 times in its brief, refers to pages or quotations therefrom not appearing in the printed record. (See Appendix II).

8. *State and Revolution* by Lenin (April, 1924, Ex. 8, R. 127, 128, 129). Although petitioner testified generally that at all times during his membership in any Communist organization he subscribed to the philosophy and principles of Socialism as manifested in the writings of Lenin (R. 102, 103), *he was not asked nor did he state that he had ever read this book* or that he believed in any of the views, beliefs or principles therein pronounced.

In citing or quoting from this Exhibit the Government, at least 22 times in its brief, refers to pages or quotations *not* appearing in the printed record. (See Appendix II). (See Appendix B).

9. *Fourth National Convention Workers Communist Party of America* (1925, Ex. 12, R. 240, 241). Petitioner stated that he was not familiar with this pamphlet (R. 160) but the record shows he attended that Convention though not as a delegate (R. 97).

In citing or quoting from this Exhibit the Government, at least 27 times in its brief and at least 38 times in Appendices B and C thereof, refers to pages or quotations therefrom *not* appearing in the printed record. (See Appendix II).

By way of summary, so far as the record shows, it appears that of the 9 documents or writings in existence prior to or at the time of petitioner's naturalization, he was familiar with only one preceding his admission to citizenship, namely, the "Manifesto of the Communist Party" (R. 122, 123, 124) and that he only believed the *principles and theories* therein enunciated to be correct, *particularly as applied to the period in which and the country about which they were written* (R. 123), *namely, Continental Europe in or about 1848.* Of the remaining 8 documents, petitioner testified that he was not familiar with 5, and as to the 3 he admitted familiarity with, he was not asked nor did he state when he acquired such familiarity, whether before or after admission to citizenship. So far as concerns the remaining 8 documents, he was neither asked nor did he state whether or not he agreed with any of the views, beliefs or principles therein expressed.

(b) Subsequent to 1927.

Documents and literature relied upon by the Government, published or coming into existence after petitioner's admission to citizenship in 1927.

In addition to the above mentioned documents, published prior to 1927, the Government relies heavily in its brief

upon citations and quotations from five remaining documents or writings, all coming into existence *after Schneiderman's admission to citizenship in 1927.* These documents are:

1. *Program of the Communist International.* (September 1928, Ex. 6, R. 103-109). In citing or quoting from this exhibit the Government, at least 27 times in its brief and 2 times in Appendix B thereof, refers to pages or quotations therefrom *not* appearing in the printed record (see Appendix II).

2. *Acceptance Speeches by William Z. Foster and Benjamin Gitlow* (published in *1928*, Ex. 14, R. 254, 255). In citing or quoting from this exhibit, the Government at least 7 times in its brief and 2 times in Appendix B thereof, refers to pages or quotations therefrom not appearing in the printed record. (See Appendix II). Further, petitioner testified that he had never seen the document and was not present at the 1928 Convention of the Party (R. 158).

3. *Platform of the Class Struggle* (published in *1928*. Ex. 15, R. 264). In citing this exhibit, the Government, at least 7 times in its brief, refers to pages thereof not set forth in the printed record. (See Appendix II). In addition, petitioner testified that he was *not* familiar with this book and did *not* attend the Convention at which this Platform was adopted (R. 161, 162).

4. *Program of the Young Communist International* (published in *1929*, Ex. 10, R. 147, 152). In citing or quoting from the exhibit the Government, at least 16 times in its brief and 3 times in Appendices B and C thereof, refers to pages or quotations therefrom not set forth in the printed record (see Appendix II).

5. *"Why Communism?"* (published in *1935*, Ex. 18, R. 165, 166). In citing or quoting from this exhibit, the Government, at least 9 times in its brief and once in Appendix C thereof, refers to pages or quotations therefrom *not* set forth in the printed record (see Appendix II). Further, petitioner testified he was not familiar with this book (R. 165, 166).

Appendix II

(a) List of Citations and Quotations from Exhibits Referred to or Set Forth in the Government's Brief Which do Not Appear in the Printed Record Before this Court and Are Not Part of the Record in this Case.*

	Page Number of Gov't's brief at which citation or quotation appears	Material cited or quoted from exhibits but not appearing in the printed record	References to and quotations from Exhibit 26
1	26	Quote from Ex. 6, p 79	
2	"	Ex. 10, p. 38	
3	"	" " p. 48	
4	29-30	Quote from "Statutes, Theses, and Conditions of Admission to the Communist International" (Ex. 26, pp. 40-41). (This Exhibit not introduced in evidence (R. 274).)	x
5	31	Ex. 11, p. 73	
6	"	Ex. 10, p. 39	
7	"	Ex. 9, p. 29	
8	32	Quote from "Statutes, Theses and Conditions of Admission to the Communist International" (Ex. 26, p. 52)	x
9	33	Statement from Ex. 26, p. 5	x
10	"	" " " " p. 42	x
11	"	" " " " p. 5	x
12	"	" " " " p. 31	x
13	33-34	Statements from Ex. 26, pp. 21-22	x
14	33	Quote from Ex. 26, p. 21	x
15	34	Statement from Ex. 26, pp. 27-30	x
16	"	" " " " p. 27	x
17	"	" " " " p. 30	x

* Rule 19, subdivision 6, of the Rules of the Circuit Court of Appeals for the Ninth Circuit provides that the appellant and appellee shall designate the parts of the record upon which they rely, and when so designated "the Clerk shall print those parts only; and the court will consider nothing but those parts of the record * * *". (U. S. Sup. Ct. Rep. Digest Vol. 2 Court Rules, pp. 308, 309.) In this case, the Government in the Circuit Court of Appeals for the Ninth Circuit merely designated the excerpts appearing in the printed record and Government's Exhibits Nos. 1, 2, 3 and 27 (R. 902). The Petitioner in said Court merely designated the excerpts printed in the printed record (R. 903). Hence, the only parts of the original exhibits properly before this Court are those excerpts contained in the printed record which constitutes the entire record on which the case was considered by the Circuit Court of Appeals and the references set forth in this Appendix II, therefore, are not part of the record before this Court.

	Page Number of Gov't's brief at which citation or quotation appears	Material cited or quoted from exhibits but not appearing in the printed record	References to and quotations from Exhibit 26
18	34	Statement from Ex. 26, p. 31	x
19	"	" " " " p. 32	x
20	34-35	" " " " pp. 5-6	x
21	34-35	" " " " pp. 30-31	x
22	35	" " " " p. 31	x
23	"	" " " " p. 7	x
24	36	Statement from the "Programme of the Communist International, Together with the Statutes of the Communist International" (Ex. 6, pp. 88-89).	
25	"	Ibid, pp. 89-90	
26	37	" pp. 91-92	
27	"	" p. 92	
28	"	" p. 91	
29	38	Ex. 13, p. 13	
30	"	" " pp. 56-61	
31	"	" " p. 100	
32	"	Ex. 10, Foreword, p. 10	
33	"	Ex. 12, p. 143	
34	"	" " p. 144	
35	41	Ex. 13, pp. 73-85	
36	"	" " p. 93	
37	"	" " p. 100	
38	"	Ex. 26, Workers' Party foreword, inside front cover	x
39	"	Ex. 13, p. 14	
40	"	" " p. 42	
41	"	" " p. 43	
42	"	" " p. 44	
43	42	" " pp. 56-61	
44	"	" " pp. 73-85	
45	"	" " pp. 100-106	
46	"	" " p. 100	
47	"	" " p. 61	
48	"	" " p. 119	

	Page Number of Gov't's brief at which citation or quotation appears	Material cited or quoted from exhibits but not appearing in the printed record	References to and quotations from Exhibit 26
49	43	Ex. 12, p. 10	
50	"	" " " "	
51	"	" " pp. 19-21	
52	"	" " p. 72	
53	"	" " p. 26	
54	"	" " " "	
55	"	" " " "	
56	43	Ex. 12, p. 64	
57	"	" " p. 70	
58	"	" " p. 67	
59	44	" " p. 96	
60	"	Ex. 15, pp. 26-31	
61	"	Ex. 14, p. 8	
62	45	Ex. 12, pp. 96-98	
63	46	Ex. 16, p. 125	
64	"	" " p. 126	
65	"	Ex. 10, p. 45	
66	"	Ex. 26, pp. 28-29	x
67	"	Ex. L. pp. 12-13	
68	"	Ex. 16, p. 124	
69	"	" " p. 126	
70	"	" " " "	
71	47	Quote from "Acceptance Speeches" (Ex. 14, p. 36)	
72	47-48	Quote from "Statutes, Theses and Conditions of Admission" (Ex. 26, p. 30)	x
73	47	Ex. 15, p. 7	
74	"	Ex. 16, p. 126	
75	48	Quote from "Programme of the Young Communist International" Ex. 10, p. 45)	
76	"	Ex. 10, p. 45	
77	"	Ex. 11 p. 12	
78	"	Ex. 16, p. 114	
79	"	" " p. 117	
80	49	Ex. 26, p. 4	x
81	"	Ex. 9, p. 51	

	Page Number of Gov't's brief at which citation or quotation appears	Material cited or quoted from exhibits but not appearing in the printed record	References to and quotations from Exhibit 26
82	"	Ex. 16, p. 121	
83	"	" " p. 122	
84	"	" " pp. 124-126	
85	"	" " p. 129	
86	"	Ex. 6, p. 6	
87	"	" " p. 20	
88	49	Ex. 11, p. 12	
89	52-53	Quote from "Programme of the Young Communist International" Ex. 10, p. 46)	
90	53	Ex. 12, p. 135	
91	"	Ex. 26, p. 19	x
92	"	" " p. 28	x
93	54	Ex. 6, p. 84	
94	"	Ex. 18, pp. 61-62	
95	"	" " p. 62	
96-97	55-56	Quote from "Statutes, Theses and Conditions of Admission to the Communist International" Ex. 26, pp. 18, 28)	x
98	56	Ex. 9, p. 76	
99	"	Ex. 12, p.94	
100	"	Quote from "Programme of the Communist International" (Ex. 6, p. 83)	
101	"	Ex. 9, pp. 43-44	
102	"	Ex. M, p. 12	
103	"	Ex. 11, p. 64 (quote)	
104	56	Ex. 18, p. 29	
105	57	Ex. 12, p. 107	
106	"	Ex. 14, p. 8	
107	"	Quote from "Statutes, Theses, and Conditions of Admission to the Communist International" (Ex. 26, p. 19)	x
108	"	Ibid, p. 28	
109	57-58	Quote from "A B C of Communism" (Ex. 16, p. 69)	
110	58	Ex. 12, p. 135	

	Page Number of Gov't's brief at which citation or quotation appears	Material cited or quoted from exhibits but not appearing in the printed record	References to and quotations from Exhibit 26
111	62	Quote from "Manifesto of the Communist Party" (Ex. 7, pp. 20-21)	
112	63	Ex. 26, p. 15	x
113	"	" " p. 36	x
114	64	" " p. 47	x
115	64	Quote from "Programme of the Young Communist International" (Ex. 10, p. 43)	
116	"	Quote from "Acceptance Speeches" (Ex. 14, p. 8)	
117	65	Ex. 8, p. 26	
118	67	Quote from "The State and Revolution" (Ex. 8, p. 16)	
119	"	Ex. 14, p. 37	
120	"	Ex. 7, p. 40	
121	"	Ex. 8, p. 44	
122	68	Quote from "The Theory and Practice of Leninism" (Ex. 11, p. 64)	
123	72	Ex. 6, p. 29	
124	"	Ex. 8, p. 63	
125	"	Ex. 16, p. 75	
126	73	Quote from "Why Communism?" (Ex. 18, p. 61)	
127	75	Quote from "A B C of Communism" (Ex. 16, pp. 8-9)	
128	76	Quote from "The 4th National Convention Workers (Communist) Party of America" (Ex. 12, p. 91)	
129	76-77	Quote from "'Left-Wing' Communism; An Infantile Disorder" (Ex. 9, p. 52)	
130	77	Ex. 9, p. 50	
131	"	" " p. 58	
132	"	Ex. 11, p. 57	
133	"	" " p. 60	
134	"	Ex. L, p. 12	
135	"	" " pp. 14-15	

	Page Number of Gov't's brief at which citation or quotation appears	Material cited or quoted from exhibits but not appearing in the printed record	References to quotations from Exhibit 26
136	"	Ex. 6, p. 79	
137	84	Ex. 8, p. 16	
138	"	Ex. 11, p. 64	
139	"	Ex. 26, p. 15	x
140	84	Ex. 26, p. 36	x
141	"	" " p. 47	x
142	"	Ex. 12, pp. 137-138	
143	85	Ex. 10, p. 43	
144	"	Ex. 6, p. 4	
145	86	Ex. 11, p. 29	
146	"	" " pp. 34-36	
147	87	Ex. 26, p. 15	x
148	"	Ex. 10, p. 43	
149	"	Quote from Ex. 8, p. 44	
150	91	Ex. 6, p. 79	
151	"	Ex. 13, pp. 15-26	
152	"	" " p. 55	
153	"	" " p. 105	
154	"	Ex. 26, p. 18	x
155	"	" " pp. 47-48	x
156	"	" " p. 52	x
157	"	Ex. 14, p. 8	
158	"	Ex. 10, pp. 43-44	
159	"	Ex. 12, pp. 9-10	
160	"	Ex. 12, p. 14	
161	"	" " p. 79	
162	"	" " pp. 93-95	
163	"	" " p. 106	
164	"	" " p. 147	
165	"	Ex. 18, pp. 50-51	
166	"	Ex. 15, p. 2	
167	"	" " pp. 63-64	
168	"	Ex. 8, p. 32	
169	"	Ex. 11, p. 55	
170	"	Ex. 26, p. 13	x
171	"	Ex. 10, p. 44	
172	"	Ex. 9, pp. 73-74	

	Page Number of Gov't's brief at which citation or quotation appears	Material cited or quoted from exhibits but not appearing in the printed record	References to and quotations from Exhibit 26
173	"	Ex. 11, p. 25	
174	"	" " p. 64	
175	92	Ex. 26, p. 45	x
176	"	" " p. 52	x
177	"	Ex. 8, p. 32	
178	"	Ex. 26, p. 48	x
179	"	Quote from Ex. 6, p. 80	
180	"	Ex. 13, p. 55	
181	"	Ex. 10, pp. 44-45	
182	"	Ex. 9, p. 65	
183	"	" " pp. 73-74	
184	"	Ex. 11, p. 25	
185	"	Ex. 6, pp. 79-80	
186	"	Ex. 26, p. 33	x
187	"	" " p. 47	x
188	"	Ex. 10, pp. 44-45	
189	"	Ex. 7, pp. 20-21	
190	"	Ex. M, p 25	
191	"	" " p. 29	
192	"	Ex. 11, p. 12	
193	"	" " p. 25	
194	"	Ex. 9, pp. 73-74	
195	"	Ex. 18, pp. 60-61	
196	93	Ex. 6, p. 27	
197	"	" " p. 54	
198	"	Ex. 11, p. 25	
199	"	Ex. 16, pp. 107-108	
200	"	Ex. 10, p. 45	
201	"	Ex. L, pp. 16-17	
202	"	Ex. 26, p. 40	x
203	"	Ex. 13, p. 5	
204	"	Ex. 26, pp. 33-34	x
205	"	" " p. 36	x
206	"	" " p. 44	x
207	"	" " p. 45	x
208	"	" " p. 52	x
209	94	Ex. 15, p. 36	

	Page Number of Gov't's brief at which citation or quotation appears	Material cited or quoted from exhibits but not appearing in the printed record	References to ad quotations from Exhibit 26
210	95	Ex. 6, p. 33	
211	"	" " p. 35	
212	"	" " p. 41	
213	"	Ex. 18, p. 18	
214	"	" " pp. 63-64	
215	"	Ex. 15, p. 36	
216	"	Ex. 26, p. 82	X
217	"	Ex. 6, p. 41	
218	"	Ex. 8, p. 41	
219	"	" " p. 63	
220	"	Ex. 26, p. 11	X
221	96	Ex. 6, p. 35	
222	"	Ex. 26, p. 46	
223	96	Ex. 26, p. 46,	X
224	"	" " pp. 44-45	X
225	97	" " p. 11	X
226	"	" " pp. 44-45	X
227	"	Ex. 8, p. 22	
228	"	" " p. 26	
229	"	" " p. 59	
230	"	Ex. 26, p. 46	X
231	"	Ex. 18, pp. 50-51	
232	"	Ex. 8, p. 25	
233	"	" " p. 26	
234	98	Ex. 6, p. 7	
235	"	Ex. 26, pp. 64-65	X
236	"	" 12, p. 113	
237	"	Ex. 8, pp. 18-19	
238	"	Ex. 26, pp. 5-8	X
239	"	" " pp. 37-39	X
240	"	Ex. 6, p. 93	
241	"	Ex. 11, pp. 67-68	
242	"	" " pp. 72-73	
243	"	Ex. 14, p. 40	
244	106	Ex. 26, p. 64	X
245	"	Ex. 6, p. 35	

	Page Number of Gov't's brief at which citation or quotation appears	Material cited or quoted from exhibits but not appearing in the printed record	References to and quotations from Exhibit 26
246	106	Ex. 15, pp. 58-59	
247	"	Ex. 11, p. 34	
248	"	Ex. L, pp. 20-21	
249	"	Ex. D, p. 13	
250a	112	Ex. 6, p. 29	
251	"	Ex. 26, p. 45	x
252	"	Ex. 8, pp. 42-43	
253	"	" " p. 64	
254	113	Quote from "The State and Revolution" (Ex. 8, p. 43).	
255	"	Ex. 8, p. 56	
256	"	" " p. 82	

Appendix II (Continued)

(b) List of Citations from Exhibits in Appendices B and C of Government's Brief Which Do Not Appear in the Printed Record Before this Court.

	Page Number of Gov't's brief at which citation appears	Material cited from Exhibits but not appearing in the printed record.	References to Exhibit 26
1	134	Ex. 16, p. 121	
2	"	Ex. 7, preface, p. 3	
3	"	" " " " "	
4	"	" " " " "	
5	"	" " " pp. 3-4	
6	"	Ex. 16, p. 121	
7	"	Ex. 26, p. 3	x
8	135	Ex. 7, preface, p. 4	
9	"	" " " " "	
10	"	Ex. 26, p. 3	x
11	"	Ex. 16, p. 121	
12	"	Ex. 26, p. 3	x
13	"	" " p. 4	x
14	"	Ex. 16, pp. 121-124	
15	"	" " p. 129	
16	"	" " p. 135*	
17	"	Ex. 6, p. 6	
18	"	" " p. 20	
19	"	Ex. 16, p. 134	
20	"	" " p. 135*	
21	"	Ex. 26	
22	"	" " p. 4	x
23	136	" " p. 5	x
24	"	" " " "	x
25	"	" " pp. 5-6	x
26	"	" " p. 31	x
27	"	" " " "	x
28	"	" " p. 6	x
29	"	" " p. 8	x
30	"	" " " "	x

* Pages cited in record but not statement referred to by Government.

	Page Number of Gov't's brief at which citation appears	Material cited from Exhibits but not appearing in the printed record.	References to Exhibit 26
31	137	Ex. 26, p. 6	x
32	"	" " " "	x
33	"	" " p. 7	x
34	138	Ex. C, p. 270	
35	139	Ex. 26, Workers' Party foreword, inside cover	x
36	"	Ex. 14, p. 8	
37	"	Ex. 12, cover-title page	
38	"	Ex. C, p. 270	
39	"	Ex. 12, pp. 71-72	
40	"	" " p. 123	
41	"	Ex. 14, p. 9	
42	"	Ex. 13, pp. 56-61	
43	"	" " p. 100	
44	140	Ex. 10, p. 15	
45	"	Quote from Ex. 10, p. 8	
46	"	Ex. 10, foreword, p. 10	
47	141	Ex. 13, p. 123	
48	"	" " p. 127	
49	"	Ex. 12, p. 165	
50	"	" " p. 7	
51	"	" " p. 24	
52	"	Ex. 26, p. 8	x
53	142	Ex. 13, pp. 43-44	
54	"	Ex. 12, p. 78	
55	143	Ex. 26, p. 27	x
56	"	Ex. 12, p. 145	
57	"	" " p. 97	
58	"	Ex. 13, p. 38	
59	"	Ex. 12, p. 54	
60	"	" " p. 152	
61	"	" " p. 156	
62	"	Ex. 13, p. 41	
63	"	Ex. 12, p. 56	
64	"	" " p. 57	
65	"	" " p. 59	
66	"	Ex. 13, pp. 110-117	
67	"	Ex. 12, pp. 152-164	

	Page Number of Gov't's brief at which citation appears	Material cited from Exhibits but not appearing in the printed record.	Reference Exhibit
68	144	Ex. 13, p. 44	
69	"	" " " "	
70	"	" " pp. 110-117	
71	"	Ex. 13, p. 115	
72	"	Ex. 12, pp. 152-164	
73	"	" " p. 156	
74	"	" " p. 157	
75	"	" " p. 151	
76	"	" " p. 153	
77	"	" " p. 21	
78	"	" " back cover	
79	"	" " p. 157	
80	"	" " p. 159	
81	"	" " p. 153	
82	"	" " p. 22	
83	"	" " p. 155	
84	145	" " p. 42	
85	"	" " p. 157	
86	"	Ex. 13, p. 32	
87	"	Ex. 12, pp. 91-92	
88	146	Ex. 26	
89	"	" " inside front cover	X
90	"	Ex. 12, pp. 137-138	
91	"	Ex. 13, pp. 73-79	
92	"	" " pp. 81-85	
93	"	Ex. 12, p. 54	
94	"	" " p. 152	
95	"	" " p. 156	
96	"	Ex. 13, p. 38	
97	147	Ex. 12, p. 54	
98	"	" " p. 152	
99	"	" " p. 156	
100	"	Ex. 13, p. 38	
101	150	Ex. 16, p. 7	
102	"	" " p. 4	
103	"	" " pp. 5-6	
104	151	Ex. 18, back of title page	

Appendix III.

Act of October 14, 1940, c. 876, Title I, subchapter III, Sec. 305, 54 Stat. 1141; 8 U. S. C. 705.

"No person shall hereafter be naturalized as a citizen of the United States—

(a) Who advises, advocates, or teaches, or who is a member of or affiliated with any organization, association, society, or group that advises, advocates, or teaches opposition to all organized government; or

(b) Who believes in, advises, advocates, or teaches, or who is a member of or affiliated with any organization, association, society, or group that believes in, advises, advocates, or teaches—

(1) the overthrow by force or violence of the Government of the United States or of all forms of law; or

(2) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or any other organized government, because of his or their official character; or

(3) the unlawful damage, injury, or destruction of property; or

(4) sabotage.

(c) Who writes, publishes, or causes to be written or published, or who knowingly circulates, distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed, or who knowingly has in his possession for the purpose of circulation, distribution, publication, or display any written or printed matter advising, advocating, or teaching opposition to all organized government, or advising, advocating, or teaching—

(1) the overthrow by force or violence of the Government of the United States or of all forms of law; or

(2) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government; or

(3) the unlawful damage, injury, or destruction of property; or

(4) sabotage.

(d) Who is a member of or affiliated with any organization, association, society, or group that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subdivision (c).

For the purpose of this section—

(1) the giving, loaning, or promising of money or anything of value to be used for the advising, advocacy or teaching of any doctrine above enumerated shall constitute the advising, advocacy or teaching of such doctrine; and

(2) the giving, loaning, or promising of money or anything of value to any organization, association, society, or group of the character above described shall constitute affiliation therewith; but nothing in this paragraph shall be taken as an exclusive definition of advising, advocacy, teaching or affiliation.

The provisions of this section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the petition for naturalization is, or has been, found to be within any of the clauses enumerated in this section, notwithstanding that at the time petition is filed he may not be included in such classes."